

HOUSE BILL 635

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2004 Regular Session
4r1891
CF 4r1139

By: **Delegates Brown and Doory (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 4, 2004

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 2, 2004

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Contradictory Statements - Prosecution and Charging**

3 FOR the purpose of prohibiting a person from willfully and falsely making an oath or
4 affirmation as to a material fact under certain circumstances; expanding the
5 application of a violation of this Act to include affidavits required by any state,
6 federal, or local government or government official; providing for the
7 prosecution of a violation of this Act involving two contradictory statements in
8 either county in which the statements are made; establishing a certain
9 statement that is sufficient for certain charging documents for a violation of this
10 Act involving contradictory statements; and generally relating to contradictory
11 statements.

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Law
14 Section 9-101 and 9-103
15 Annotated Code of Maryland
16 (2002 Volume and 2003 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Criminal Law**

20 9-101.

21 (a) A person may not willfully and falsely make an oath or affirmation AS TO
22 A MATERIAL FACT:

- 1 (1) if the false swearing is perjury at common law;
- 2 (2) in an affidavit required by ANY STATE, FEDERAL, OR LOCAL law;
- 3 (3) in an affidavit made to induce a court or officer to pass an account or
4 claim;
- 5 (4) in an affidavit required [as part of a report and return made to the
6 General Assembly or an officer of the government] BY ANY STATE, FEDERAL, OR
7 LOCAL GOVERNMENT OR GOVERNMENTAL OFFICIAL WITH LEGAL AUTHORITY TO
8 REQUIRE THE ISSUANCE OF AN AFFIDAVIT; or
- 9 (5) in an affidavit or affirmation made under the Maryland Rules.

10 (b) A person who violates this section is guilty of the misdemeanor of perjury
11 and on conviction is subject to imprisonment not exceeding 10 years.

12 (c) (1) If a person makes an oath or affirmation to two contradictory
13 statements, each of which, if false, is prohibited by subsection (a) of this section, it is
14 sufficient [for purposes of indictment] to allege, and for conviction to prove, that one
15 of the statements is willfully false without specifying which one.

16 (2) IF THE TWO CONTRADICTORY STATEMENTS MADE IN VIOLATION OF
17 PARAGRAPH (1) OF THIS SUBSECTION ARE MADE IN DIFFERENT COUNTIES, THE
18 VIOLATION MAY BE PROSECUTED IN EITHER COUNTY.

19 (d) A person who violates this section is subject to § 5-106(b) of the Courts
20 Article.

21 9-103.

22 (A) An indictment, information, or [warrant] OTHER CHARGING DOCUMENT
23 for perjury IN VIOLATION OF § 9-101(A) OF THIS SUBTITLE is sufficient if it
24 substantially states:

25 "(name of defendant) on (date) in (county), on examination as a witness, duly
26 sworn to testify in (proceeding) by (court or other person administering oath) with
27 authority to administer the oath, [unlawfully] WILLFULLY, UNLAWFULLY, and falsely
28 swore (facts), the matters so sworn were material, and the testimony of (name of
29 defendant) was willfully and corruptly false, in violation of (section violated) against
30 the peace, government, and dignity of the State."

31 (B) AN INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT FOR
32 PERJURY IN VIOLATION OF § 9-101(C) OF THIS SUBTITLE IS SUFFICIENT IF IT
33 SUBSTANTIALLY STATES:

34 "(NAME OF DEFENDANT) IN (COUNTY), ON EXAMINATION AS A WITNESS, DULY
35 SWORN TO TESTIFY IN (PROCEEDING) BY (COURT OR OTHER PERSON
36 ADMINISTERING OATH) WITH AUTHORITY TO ADMINISTER THE OATH, ON (DATE 1)
37 WILLFULLY SWORE (FACTS 1) AND ON (DATE 1 OR 2)(IN COUNTY 1 OR 2) WILLFULLY

1 SWORE (FACTS 2), AND THAT THE MATTERS SO SWORN ARE MATERIAL, AND AT LEAST
2 ONE OF THE TWO CONTRADICTORY STATEMENTS WAS WILLFULLY FALSE, IN
3 VIOLATION OF (SECTION VIOLATED) AGAINST THE PEACE, GOVERNMENT, AND
4 DIGNITY OF THE STATE."

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2004.